EUROMEDICAL INDUSTRIES SDN. BHD.

v.

MENTERI SUMBER MANUSIA & ANOR.

HIGH COURT MALAYA, KUALA LUMPUR
DATO' SITI NORMA BTE YAAKOB J.
[ORIGINATING MOTION NO. R1-25-27-94]
22 AUGUST 1994

PRACTICE & PROCEDURE: Application for interim stay pending hearing of application for certiorari against decision of Minister of Human Resources that workers can be represented by the National Union of Employees in Companies Manufacturing Rubber Products - Whether interim stay is in the nature of an injunction caught by s. 29 of the Government Proceedings Act 1956 for which the Court is not competent to grant against a Minister.

This was an application for an interim order for stay, pending the hearing of the applicant's application for *certiorari*, against the execution of a decision of the Minister of Human Resources on 17 February 1994, that the applicant grant recognition that its workers could be represented by the National Union of Employees in Companies Manufacturing Rubber Products (NUECMRP).

The issue was whether such interim stay was in the nature of an injunction which is caught by s. 29 of the Government Proceedings Act 1956 for which the Court is not competent to grant against a Minister of the Government.

Held:

The effect of the stay was to prevent the Minister's decision from being enforced and it was therefore in the nature of an injunction restraining the Minister from enforcing his administrative decision. It was true that the application was made under O. 53 r. 1(5) of the Rules of the High Court 1980 (RHC) but being rules governing the procedure of applications to Court, the application was subject to any written law and on the facts of this case, that written law was the Government Proceedings Act 1956. Since it is already settled law that no injunction can lie against any government agency in any civil proceedings, it followed that the stay asked for by the applicant could not be allowed.

[Application disallowed].

Legislation referred to:
Government Proceedings Act 1956, s. 29
Rules of the High Court 1980, O. 53, r. 1(5)

For the applicant - S. Kulasegaran (Usha Kulasegaran with him); M/s. Ranjit, Thomas & Kula
For the respondents - Lee Chan Leong, Senior Federal Counsel

JUDGMENT

Siti Norma bte Yaakob J:
The instant proceedings before me is for an interim order staying the execution of a decision made by the Minister of Human Resources on 17 February 1994, when he decided that the applicant grant recognition that its workers can be represented by the National Union of Employees in Companies Manufacturing Rubber Products

(NUECMRP). The applicant is now challenging that decision by way of *certiorari* but pending the hearing of its substantive application, it now seeks the interim order for stay.

The only issue raised is whether such interim stay is in the nature of an injunction which is caught by s. 29 of the Government Proceedings Act 1956 and for which the Court is not competent to grant against a Minister of the Government.

The effect of the stay is to prevent the Minister's decision from being enforced and it is therefore in the nature of an injunction restraining the Minister from enforcing his administrative decision. It is true that the application is made under O. 53, r. 1(5) of the Rules of the High Court 1980 but being rules governing the procedures of applications to Court, their application is subject to any written law and on the facts of this case, that written law is the Government Proceedings Act 1956. Since it is already settled law that no injunction can lie against any government agency in any civil proceedings, it follows that the stay asked for by the applicant cannot be allowed and on that finding, I had exercised my discretion and disallowed the applicant's application for an interim stay pending the hearing of the order for *certiorari*.